

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
SPARTANBURG DIVISION

Anthony D. Richardson and Delinda Ann) Civil Action No.: 7:10-2679-MGL
Turner,)
)
Plaintiffs,)
)
vs.)
)
Union Public Safety Department Police;)
Chief Sam White; Mickey Parker;)
Investigator Beatty; and Captain Bailey,)
)
Defendants.)
)

ORDER AND OPINION

On October 15, 2010, this case was removed to federal court from the Union County Court of Common Pleas by Defendant Union Public Safety Department Police. (ECF No. 1.) Plaintiffs, proceeding pro se, filed an amended supplemental complaint on October 21, 2010, alleging constitutional violations; slander; racial discrimination; harassment; unequal protection of the law; illegal search and seizure in violation of the Fourth Amendment; violations of the First Amendment; and violations of state laws. (ECF No. 12.)

In accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 D.S.C., this matter was referred to United States Magistrate Judge Jacquelyn D. Austin for pretrial handling. On July 27, 2012, Magistrate Judge Austin issued a Report and Recommendation recommending that Plaintiffs' Motion to Stay Pending Appeal (ECF No. 144) be granted, and that Defendants' Motion for Summary Judgment (ECF No. 141) be denied with leave to refile after the stay is lifted.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The court may accept, reject, or modify, in whole

or in part, the Report and Recommendation or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). The court is charged with making a de novo determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. Plaintiffs and Defendants were advised of their right to file objections to the Report and Recommendation, however the parties have not done so. (ECF No. 164 at 13.) In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

After a careful review of the record, the applicable law, and the Report and Recommendation, the court finds the Magistrate Judge’s recommendation to be proper. Accordingly the Report and Recommendation is incorporated herein by reference and this action is STAYED pending appeal, and Defendants’ Motion for Summary Judgment (ECF No. 141) is DENIED with leave to refile after the stay is lifted. This action is recommitted to the Magistrate Judge for further pretrial handling upon lifting of the stay.

IT IS SO ORDERED.

s/Mary G. Lewis
United States District Judge

Spartanburg, South Carolina
September 13, 2012